The BAR ASSOCIATION BULLETIN

Entered as second-class matter, April 13, 1926, at the Postoffice at Los Angeles, California, under the Act of March 3, 1879

Volume 3, Number 7 DECEMBER 1, 1927 5c a copy: $1 a year

Official Publication of the Los Angeles Bar Association, Los Angeles, Cal.

In This Issue

Printed by PARKER, STONE & BAIRD COMPANY
Law Printers and Engravers
241 East Fourth Street Los Angeles, California

The BAR ASSOCIATION BULLETIN

Vol. 3 DECEMBER 1, 1927 No. 7

Published the first and third Thursdays of each month by the Los Angeles Bar Association and devoted to the interests of the Association.

CHAS. L. NICHOLS, *Editor*
R. H. PURDUE, *Associate Editor*

Office: 535 Title Insurance Building, Los Angeles
Fifth and Spring Streets
Telephone VA ndike 7735

LOS ANGELES BAR ASSOCIATION

(City and County—Organized 1888)

Open Letter from Board of Trustees

The Board of Trustees of the Los Angeles Bar Association have issued the following statement in regard to an article recently published in the press concerning the contents of an action filed against Mr. Kemper Campbell, President of the Los Angeles Bar Association:

Los Angeles, California,

November 15th, 1927.

An article has recently appeared in the press relating to the contents of the complaint in the libel action, filed in the Superior Court of this county, by Mrs. Rosalind Bates against Mr. Kemper Campbell, President of the Los Angeles Bar Association. The article states that the complaint in the action charges Mr. Cmapbell with having used the funds and equipment of the Bar Association for his personal exploitation and in giving entertainments at his country home, and refers particularly to an entertainment given there in honor of Dr. and Mrs. Holdsworth.

In view of the fact that the complaint as referred to in the article, charges misuse of the funds and equipment of the Association, the Trustees of the Los Angeles Bar Association feel that it is due the Association and its President that they make this public statement.

No funds contributed to the Association for campaigns for the election of judges have been used at any time, for any purpose other than that for which they were contributed, and such funds have been expended under the direction of a special committee of trustees of the Association appointed for that purpose.

It is not true that Mr. Campbell has improperly used the funds, equipment or offices of the Association. On the contrary, during his term of office he has spent the major part of his time and a very considerable sum of his personal funds for the benefit of the Bar Association, for which he has neither asked nor received reimbursement.

Dr. and Mrs. Holdsworth were guests of the Los Angeles Bar Association last May. Dr. Holdsworth is Vinerian Professor of Law at Oxford University, holding the chair formerly occupied by Blackstone, and is a most distinguished legal scholar and member of the British Bar. He came to the United States for the purpose of giving a series of lectures, and while in this country was paid high honor by leading bar associations. He was invited to visit the Pacific Coast as the guest of the bar associations of Portland, San Francisco and Los Angeles. Funds of the Los Angeles Bar Association were used towards paying his traveling expenses and in his entertainment while here. The other two associations just mentioned also contributed to the payment of his traveling expenses. All expenditures incurred by this Association in the entertainment of Dr. Holdsworth were approved and paid by order of its Board of Trustees. Vouchers covering all items are on file with the Treasurer of the Association. Mr. Campbell himself incurred a considerable personal expense in the entertainment of Dr. Holdsworth which was not charged to the Association.

(signed)

R. P. Jennings
Irving M. Walker
Thos. W. Robinson
Alfred L. Bartlett
H. T. Morrow
Lawrence L. Larrabee
R. H. F. Variel, Jr.
Leonard B. Slosson
Norman A. Bailie
G. R. Crump

Trustees, Los Angeles Bar Association.

Admission of Attorneys from Foreign Jurisdictions*

By JOHN E. BIBY *of the Los Angeles Bar; formerly member State Board of Bar Examiners; member of Examining Committee of State Bar of California.*

The discussion of this subject will be based upon a consideration of the following points:

1. Does the subject involve an existing problem?
2. Comity and reciprocity.
3. What action is advisable?

To enable proper consideration of the question whether a problem in relation to this subject exists in California, you should have definite information regarding the conditions existing in this state. The information following is from knowledge gained after personal examination of more than 1700 applicants during the past nine years, and from a familiarity with the subject arising from an endeavor to keep posted on the activities of the various bar associations and others interested in this subject.

The law of this state prior to 1919, when the Board of Bar Examiners was created, provided in substance as follows:

From 1872 until 1878, white male citizens only could be admitted upon motion. Since 1878 all citizens possessing the requisite qualifications might be so admitted. From 1921 until 1923, residence was required, but has not been required since the latter date. At all times subsequent to 1905, except during the period from 1921 to 1923, citizenship, or a bona fide intent of a resident of this state to become a citizen, has been required.

In 1919, the Board of Bar Examiners was created, and said Board has ever since examined all such applicants upon their character and experience.

Prior to 1919 no definite period of practice was required; from 1919 to 1923, actual practice over a period of three years was required; this three year period might have been any number of years before filing an application. During this period many persons who had not been engaged in practice for long periods of time sought admission to practice law in this state on motion. One such applicant had not engaged in practice for a period of 28 years preceding the filing of his application. His avocations during said period were varied and too numerous to mention. Another gentleman licensed to practice in a sister state whose law imposed no mental qualifications, filed an application. Investigation showed his shingle announcing him to be an attorney at law had hung for more than three years below a window of his sleeping room. This room was over a saloon which the applicant had conducted from 1901 until the 18th amendment went into effect. Other applicants who had not engaged in actual practice for periods exceeding ten years prior to the time of filing their applications, were engaged in such occupations as real estate, insurance, telegraphy, railroading, merchants, promoters, contractors, carpenters, barbers, cigar stand and restaurant employees, and other similar occupations. The large number of this class of applicants caused the Board of Bar Examiners to recommend an amendment to our laws requiring three years' actual practice within a period of seven years immediately preceding the filing of an application. Such an amendment was adopted in 1923, and since that time has been in effect.

Prior to 1919 the subject of the admission of attorneys was under the exclusive jurisdiction of the Supreme Court, except for a period when Superior Courts were permitted to admit attorneys to practice in such courts only "upon strict examination in open court." Some of you remember how "strict" such examinations were. At all times prior to 1919 the law of this state reserved to the Supreme Court the right to examine an attorney as to his "qualifications." This right, so far as the same was given or reserved by statute, has not existed since 1919, and it was not given to the Board of Bar Examiners respecting attorneys seeking admission on motion.

*Address delivered at San Francisco, November 18, 1927, before newly organized State Bar of California.

Since 1919 the statutory procedure for the admission of attorneys has been under the exclusive jurisdiction of the respective District Courts of Appeal. The practice of such courts has been to admit only such attorneys who had first received a favorable recommendation from the Board of Bar Examiners.

The amendment adopted in 1923 accomplished its purpose and incidentally imposed upon the Board of Bar Examiners the burden of determining whether the applicant had engaged in actual practice for the three year period required. The endeavor of many applicants to convince the Board they were able to meet this requirement, sheds further light upon the character of such applicants. A large number who filed their applications and vigorously endeavored to show this qualification were unable to do so. The attempts of various applicants to prove three years' actual practice within seven years preceding the filing of the application have ranged from the ridiculous to the sublime. For instance, one applicant whose application had received an unfavorable recommendation from the Board of Bar Examiners on the ground that he lacked this qualification, appealed to the District Court of Appeal to reverse the recommendation of the Board of Bar Examiner. His theory was that while not actually present in the state where he was licensed to practice, he had, since coming to California, practiced law in his home stat by correspondence for a period which was sufficient when added to his actual practice within said state, to meet the three year requirement of our law. His appeal was denied. Notwithstanding such precedent, a recent applicant tried to distinguish the decision last mentioned as applied to his application, notwithstanding the facts were the same. Others have deliberately lied regarding this period of actual practice. Of this class, it is common experience to have the applicant make a return call a few moments after his personal interview with the examiner, and state that he was confused, or had forgotten certain matters, and would like to be permitted to make an explanation. This confusion arose most frequently where the applicant's actual practice was within a few months of the required three year period, and, in many instances where he had been a defendant in some action involving charges of fraud, but which he failed to disclose when asked if he had been a defendant in any action. Another class is made up of criminals and near-criminals. Three applicants had been tried for murder — one for three separate offenses. Another served six months in a federal prison, having been convicted for sending obscene letters through the United States mail to a young girl.

Respecting the motives which prompt so many attorneys from sister states to seek admission to practice law in this state, the applicants seem to fall naturally into three classes; namely:

1. Young men who have practiced a bare three years without meeting the success anticipated; or having met such success seek a more active field, and answer the call of the "west."

2. A larger number who have tried and failed in their efforts, but who are ambitious to try in a new field. Of such it is no uncommon experience to learn that California is the last of many fields previously tried—such are the proverbial "rolling stones" that "gather no moss."

3. Men of more advanced years who have met with a degree of success in their practice and in their finances. Such generally desire to retain the office of an attorney because they feel it is an honor, and many such desire to accommodate their friends and former clients from "Iowa," but who now reside in California.

I do not wish to imply that this classification is complete. It embraces by far the great majority of applicants who seek admission on motion. It excludes, however, a number whose ability and character is beyond question, and whose presence in the state adds strength to the integrity and standing of our profession.

Further illustrating the character and ability of many applicants, I believe that should you select at random say ten applicants for admission on motion, knowing nothing of them, and read the stenographic reports of the examinations given these applicants by members of the Board of Bar Examiners, you would have no hesitancy in saying that six of them do not possess the qualificaions ncessary to enable them to protect the interests of their clients, or do honor to the profession. Unless you have knowledge of the number of such applicants, you may feel that even though some are of the types mentioned, yet a serious problem does exist, because the whole number of applicants is not sufficient to require

any action. I will give you the figures taken from the records of our District Court of Appeal, Second Appellate District: Prior to 1922, about 25 applications were filed

In	1922	132	applications were filed.
"	1923	258	" " "
"	1924	194	" " "
"	1925	160	" " "
"	1926	164	" " "
"	1927	217	(1st 10 mos.) " "
	Total	1375	

Of this number the Board of Bar Examiners gave favorable recommendations to 1178. One hundred ninety-seven of this number were found to be unqualified.

The First and Second Appellate Districts had perhaps 250, making a grand total of 1625. In these Districts 25 received unfavorable recommendations, making a grand total of 212 out of 1625 who were found by the Board of Bar Examiners to be unqualified. It must be observed that each of said applicants found to be unqualified, represented that he was qualified; some no doubt in ignorance of the requirements; others were mistaken as to the requirements; and a large number knew they could not meet the requirements but hoped to "get by."

Of the 212 applicants who have been given an unfavorable recommendation by the Board of Bar Examiners, without exception each applicant was supported by letters from not less than 2 judges, 2 attorneys residing where the applicant had been engaged in practice, 2 clients, and the applicant's local bar association, couched in terms of the highest commendation, both as to the applicant's character and as to his ability. One former justice of our Supreme Court who has personal knowledge of such letters, some time ago remarked that if the applicants for admission on motion in the Second Appellate District lived up to only one-half of the commendable things said about them in the letters filed in support of their applications, we would have both the "most learned and the most honorable Bar in existence."

It is no breach of confidence to say that it is no uncommon experience for a member of the Board of Bar Examiners after considering the record and personality of an applicant to say: "I vote to recommend this applicant, not that I desire to do so, but I feel the law requires it."

If you conclude there is an existing problem in relation to the admission of attorneys in this state on motion, will you not consider whether such problem is peculiar to California? That this may be so was suggested to me from an examination of every report during the five years last past made to the American Bar Association by its Legal Section and its Committee on Legal Education. Not once was any reference made to the admission of attorneys on motion.

You no doubt appreciate that California, with its rapid increase in population through immigration, may occupy a position in respect to this matter different from a large majority of other cities. New York, Illinois and Michigan, and perhaps a few other states, may be similarly situated. It may be that no consideration has been given to this subject by the American Bar Association during the past five years because of the plan adopted by it in 1921 to raise the standards of legal education throughout the United States to a much higher plane. When the goal thus established has been attained, little difficulty will be encountered in establishing the requisite qualifications for admission to practice law on motion in any state. At the best, this goal will not be reached for several years. If California does not change its pace in respect to the resolution adopted by the American Bar Association, the goal will never be reached in all the states. In the meantime this matter should be given most careful consideration.

In so considering this subject, we immediately meet the rule of comity. Considered in its technical sense, this rule probably has no application. Considered in a broad sense, and construing the word comity to mean courtesy to those states which admit California attorneys to practice on motion on the same terms as we admit such applicants, the rule of comity is applicable.

The basic idea of comity is reciprocity, doing unto others as others do unto you. This subject is discussed at length in a Wyoming decision (Union Sec. Co. v. Adams, 236 Pac. 513, 50 A. L. R. 23), where an interesting note is found. We quote therefrom the following excerpts.

> "As a general proposition, I would extend this comity to every nation whose system of jurisprudence, and whose local vicinity, give assurance that it will

be reciprocated with fidelity and convenience.

"True comity is equality; we should demand nothing more and concede nothing less.

"We have reviewed most of the authorities which we have been able to find upon the subject at hand, and from this review it clearly appears that the principle of comity is throughout the civilized world based upon mutuality and reciprocity, and where it appears that no such reciprocity is extended, none is generally granted in return.

"We take it, it is not the duty of a court of this state to extend to a citizen of another state a right or privilege that would not be extended to one of our citizens in a matter of this kind."

In concluding the opinion, the writer says:

"If we should still continue to apply the principle of comity without reciprocity, we should not alone injure citizens of this state, whose protection is our first duty, but we should also, indirectly encourage such unlawful removals and dishonest conduct."

Let us now ascertain, if we can, whether other states are extending or applying this rule of comity to attorneys seeking admission to practice on motion. If other states are not granting California attorneys the right to practice law upon the same terms and conditions that California grants such rights to attorneys from sister states, the rule of comity has no application, and should not influence us in our consideration of this subject.

I have carefully examined the West Publishing Company's Digest of the laws of every state in the Union and the District of Columbia covering the admission of attorneys on motion. It appears that California attorneys may be admitted on motion on the same terms as we admit attorneys from sister states in only six other states; to-wit, Alabama, Idaho, Montana, Oregon, Utah and Virginia. It seems unnecessary to give you further facts in order to enable you to form a just conclusion on this subject.

The principal points which render the rule of comity inapplicable to the State Bar of California, or to the courts of this state, arise out of the following facts:

California does not require residence, or any pre-legal education, of any applicant. Thirty states require not less than a high school course before becoming eligible for examination. Colorado requires one year in college; Nebraska and Ohio, two years. Other states have adopted similar requirements but have postponed the taking effect of such laws to certain definite dates in the future. Other states are now giving serious consideration to the adoption of similar rules. California is more lax in its requirements for admission to practice law on motion than any other state in the union.

The subject involving, as it does, a serious problem, and its solution not being hampered by any rule of comity, some consideration of its solution may not be amiss. The bar of the State of California is now entering upon a period during which the public's eye will be centered upon it. In our advocacy of an incorporated bar, we have been criticized as seeking a power to be used for selfish purposes. According to our energetic friend, Hugh Henry Brown, of the San Francisco bar, the state has been called the "lawyers' soviet," "Brauman's Bund," "Pundit's Pact," and the "Trust-Busters' Trust." Heretofore the duty to determine the fitness of all candidates for admission to the bar rested with the courts. It now rests upon the State Bar of California and the lawyers themselves—where the duty rests, there the responsibility lies.

It was stated previously when the goal set by the American Bar Association as to pre-legal education of candidates for admission to the bar is reached, little difficulty will be encountered in determining the qualifications of applicants seeking admission on motion. The problem arises through a lack on the part of the applicant of requisite knowledge, both general knowledge and knowledge of the law, and a lack of character.

The resolution adopted by the American Bar Association in 1921 in part reads as follows:

"1. The American Bar Association is of the opinion that every candidate for admission to the bar should give evidence of graduation from a law school complying with the following standards:

"a. It shall require as a condition of admission at least two years of study in a college.

"b. It shall require 3 years study of the law."

The other requirements I will not take

time to quote. If you are not familiar with this resolution in its entirety, you should be. It must be admitted that compliance with this resolution will raise the average mental caliber of attorneys far above the present average.

Then comes the question of character. The day when a parent feels that the attendance of his child at a reputable college or university may weaken the child's character has passed. A reputable college or university is now recognized as a character builder.

At a largely attended convention of bar association delegates, representing bar associations from all over the United States, held in Washington, D. C., in 1922, the following statement was adopted as part of a resolution endorsing the resolution adopted at the American Bar Association, to-wit:

"7. We believe that the adoption of these standards will increase the efficiency, and strengthen the character of those coming to the practice of law, and will therefore tend to improve greatly the administration of justice.

"9. We believe that adequate intellectual requirements for admission to the Bar will not only increase the efficiency of those admitted to practice, but will also strengthen their moral character."

Hon. Silas Strawn, now President of the American Bar Association, in speaking of this new resolution, quoted Cardinal Newman, who said:

"The practical business of a university is training good members of society * * * college honor is the keenest in a community, and no higher ideals can be found on earth than in the best thought of our universities."

Mr. Strawn in speaking of his experience arising out of the examination of more than 400 applicants while he was a member of the committee on character and fitness of candidates for admission to the bar of the State of California, said:

"It is our unfailing experience that the lack of ability to distinguish between right and wrong, and the failure to rise to the ideal of the profession, were most prevalent among those who did not have a college training."

Hon. Geo. B. Wickersham, formerly attorney general of the United States, speaking at the conference of Bar Association delegates above mentioned, contrasted the advantage of college training over office training, and said:

"After all, more important even than education, in the learning of law, is the formation of character, and the development of standards of personal and legal ethics which require no teaching or radical codes of conduct, but which develop an understanding knowledge of right and wrong, rendering impossible the toleration of any conduct that is not straightforward and honorable."

The effect of two years of college work, followed by three years in an accredited law school, reaches further than the acquisition of knowledge. Such schooling is an influential factor in establishing character.

You who have a special interest in this subject will be aroused to greater activity if surrounded by the atmosphere which emanates from the articles appearing at pages 482-591, Vol. XLVII. (1922) of the Reports of the American Bar Association, and the Journals of that association, particularly the March, July and October numbers of the current year. The advocates of higher standards of legal education have met, and they will continue to meet opposition. As you consider this question, please remember that "minds are like parachutes, they function only when they are open."

The attainment of the ideal will not remedy and immediate needs. Such may in part at least be relieved by the adoption of a rule requiring the examining committee to examine each applicant as to both character and general fitness, regardless of his knowledge of legal principles.

New York and Chicago have special committees who conduct such examinations, and the results of the work they have done have proven the wisdom of creating the committees. Men of the highest standing in each of these cities have served on these committees. It may also prove beneficial to give the examining committee discretionary power to examine any applicant as to his mental qualifications. A questionaire worked out in considerable detail to be answered by each applicant under oath, and a requirement for bona fide residence, are worthy of careful consideration.

We believe the law is a learned and honorable profession. To keep it such and lead the public to so believe requires unselfish loyalty and great sacrifice of time and ability. Elevating the standards for admission

(Continued on Page 28)

VOLUME I, NUMBER 1 NOVEMBER, 1927

SOUTHERN CALIFORNIA LAW REVIEW

PUBLISHED IN NOVEMBER, JANUARY, MARCH, MAY, AND JULY BY THE FACULTY AND STUDENTS OF THE SCHOOL OF LAW OF THE UNIVERSITY OF SOUTHERN CALIFORNIA.

SUBSCRIPTION, $3.00 A YEAR SINGLE COPIES, 75 CENTS

The President's Page

Fellow Members,

Los Angeles Bar Association:

BAR ASSOCIATION BUILDING

For about three and one-half years we have had under consideration the project of a "Bar Association Building." The purpose of this will be to house the business offices of the Association and probably those of the State Bar, and to give that evidence of permanency and stability which an organization of over twenty-five hundred members deserves. I have felt that there would be a sufficient number of our members who would be interested in taking offices in such a building to guarantee its success. I have also felt that it would not be necessary for us to undertake the financing of such a building or to assume any financial burdens whatever in connection with it. We are able to furnish a market for the space in a building, which is the most important of the several factors that make a building possible and successful.

We have taken one or two polls to get the views of lawyers as to favored localities. We have not, so far as I recall, circularized in this respect for about two years. In the meantime, members of the bar are gradually moving southward and westward and my impression is that in looking toward the future we should not ignore the drift of the city in those directions. Then too, in order to gain the best results from this project, the building should be built in the newer portion of the business section so that it will be contiguous to similar modern buildings of correspondingly attractive appearance. A building toward the west affords better access for the majority of clients and saves the time of the lawyer each day to and from his home. The building should contain a double basement for accommodation of automobiles, and this will render it possible for the attorney to reach the court house in less time than by street car, even from a nearer location. I consider that a building in the immediate vicinity of the Roosevelt Building or Pacific Finance Building will be regarded within a comparatively short time as in the heart of the business section. It will be much more accessible to the majority of the residents of the metropolitan district, including Pasadena, Glendale, Hollywood and the Bay District, than a location on Spring or Broadway.

Some unique but practical ideas have been put forward with reference to the Bar Association Building. It is proposed that the building contain a library for the accommodation of members of the Association, which will not only save the upkeep of individual sets of books but also the heavy expense of housing them. It is also suggested that there be a messenger system which will handle the filing of papers in the Clerk's office and other similar duties. It is proposed that there be on each floor a central telephone exchange with expert operators.

We would be pleased to receive further suggestions from members of the Association as to possible features that can be adopted which will result in additional convenience and economy to members of the Association, and which may serve to set the standard for other buildings wherein lawyers have their offices.

A special committee of the Board of Trustees, consisting of Mr. Norman Bailie, Mr. Guy Crump and myself, has been appointed and it is expected that we may be able in the near future to place before the members of the Association a definite and satisfactory proposal, and one which should have the hearty approval of every member of the Association.

STATE BAR

It is a pleasure to report that the first meeting of the Board of Governors revealed a body of men thoroughly conscious of the gravity of their responsibilities and of the extent of their opportunity to render an important service. There is no disposition on the part of any member of the Board to delegate his duty. We are peculiarly fortunate in having the mature judgment of a number of distinguished and honored leaders of the bar, including Mr. O. K. Cushing of San Francisco, Mr. Eugene Daney of San Diego, and our own William J. Hunsaker and Frank James of Los Angeles. The propriety of the selection of such men has already been fully demonstrated by the character of their most excellent counsel at the opening session of the Board and their subsequent energetic activities. Many committees were appointed

in order that the work of the Board should be immediately outlined and gotten under way at the earliest possible time.

So that there will be no intermission by reason of the assumption of disciplinary work by the State Bar, the Grievance Committee of the Los Angeles Bar Association as now constituted, together with the four members of the Board of Governors, have been appointed a local administrative committee under the State Bar Act to hear and make findings to the Board of Governors in accordance with the provisions of the Act. Contrary to the expectation in some quarters, the Board of Governors showed a particular interest in the situation in Los Angeles County, not only expressing a desire to study our methods of handling complaints and grievances but an appropriation was made to meet all expenses of carrying on the disciplinary work of Los Angeles County Bar Association until further order of the Board. I know that you will be glad to learn that frequent mention was made at the meeting of the Board of Governors of the work that is being done by Los Angeles Bar Association, and confidence in that work was shown by the appropriation referred to and in many other ways.

While we all hope that there will be a proper reapportionment of Congressional Districts, yet I am frank to say that there seems to be considerable merit in the position taken by the "cow counties" with respect to this matter of representation. I can well understand the fear that they will be governed by two large cities. They are anxious to have a voice and they realize just as we do that on the whole the county bar has a higher standard of ethics than the city bar. This matter of raising the standards of the legal profession is not geographical—it is professional. We need these clear-thinking, moral, country lawyers to help us in our problems.

THE STATE BAR AND THE LOCAL ASSOCIATION

At the first meeting of the Board of Governors, Mr. Stammer, a fine, upstanding young attorney from Fresno who is a member of the Board, voiced a popular sentiment when he suggested that some practicable means should be evolved to correlate the work of the State Bar and that of local organizations. He felt that the local organzation should not only be preserved but that it should be emphasized because it represents that volunteer spirit of reform, without which no progress is possible. He urged that the local administrative committees provided under the Act should be named or at least nominated by the local bar associations. Some of those who apparently have little knowledge of the purposes and activities of local bar associations or for some sinster reason desire to undermine them have propounded a query regarding the future usefulness of the existing local associations. I have endeavored to answer that query in the issue of the Bar Association BULLETIN of October 6th. I believe it should be quite apparent that the relief of local associations from the burdens of disciplinary work effected by the State Bar Act will have the result of affording local associations the opportunity they have long awaited, of utilizing their major energies and their best thought to the constructive work of the many reforms in which they should be engaged, and in the accomplishment of which they will be stimulated and inspired to engage. Those who have not served upon our Board of Trustees cannot realize how much of our time is absorbed in consideration of the reports and recommendations of the Grievance Committee. Members of the Board of Trustees have generously given of their time to the extent of two meetings a week, but even these do not suffice for the adequate encouragement of the activities of our many constructive committees. Relieved of disciplinary duties, the local Board of Trustees, in conjunction with the numerous committees of our Association should be able to increase the accomplishments of this Association manifold.

KEMPER CAMPBELL.

Special announcements by law firms of new locations and new associations are most effectively made to the profession through the pages of the BULLETIN. ***In addition, such announcements serve as a manifestation of good-will toward and co-operation with the*** BULLETIN ***in its program of constructive endeavor for the welfare of the Bar Association.***

BAILIE, TURNER & LAKE

902 Citizens National Bank Building, Los Angeles, California,

Announce the association with their firm of

ALLEN T. LYNCH

Formerly Superintendent of the Claims Division of
National Surety Company at Los Angeles.

THE FIRM OF McCOMB & HALL

Composed of

Marshall F. McComb and John M. Hall was on October 6, 1927 Dissolved
Due to the Appointment of Mr. McComb to the Superior Court
of Los Angeles County.

The practice formerly conducted by the firm will be continued by

JOHN M. HALL

At the offices formerly occupied by the firm
1213-1217 Bank of Italy Building
Seventh and Olive Streets
Los Angeles, California

The Appraisal of Life Estates

By VERE RADIR NORTON *of the Los Angeles Bar*

Pursuant to the remarkable ingenuity displayed by the makers of wills and creators of trusts, in the attempt to maintain post-mortem direction of the use of their worldly goods, some of the most perplexing problems in connection with Inheritance Taxation arise in the appraisal of life estates and the remainders limited thereon.

The text of the inheritance tax act lays down certain rules which appear simple enough at first glance but which when the attempt is made to apply them to the specific case in hand, seem fraught with uncertainty.

The subject is worthy of a five hundred page treatise, and this must of necessity be but a brief resume of some of the high lights of appraisal of life estates, and, of course, presupposes a general knowledge of the subject.

According to Black's Law Dictionary, a life estate is "an estate whose duration is limited to the life of the person holding it or of some other person." The term "remainder" is in use to describe a future estate which is limited to commence upon the expiration of a preceding or primary estate; to wit, for our consideration, the expiration of the life estate.

These estates may be created by deed, trust agreement, or by will, and the life estate may be created by express direction as such, or by necessary inference from the terminology of the creating instrument; but it *must* be created by an instrument in writing.

Whether or not an instrument creates a life estate and what the value thereof and who the remaindermen may be and the value of their interest, is our appraisal problem. Each case stands as an individual according to the true import of the provisions of the creating instrument. Finding this true import is often somewhat bewildering. Referring to the nature of future estates, it has been said that there is no subject of the law more abstruse or in which greater refinement of learning has been displayed.

We are directed by the inheritance tax act to appraise the value of property as of the date of death of a decedent, make the proper deductions, and, using the 5% rate of interest upon said valuation, compute the value of life estates and remainders according to the rates and methods set forth in the acturies combined experience tables. We thus have a mathematical problem draped in legal robes and requiring the application of all available principles of logic.

I venture to state that most of us have experienced a similar reaction with our first life estate computation. To wit: that it is a highly arbitrary method of arriving at a taxable valuation, in spite of our great respect for the law of averages.

A life estate may be created in real or personal property. It may even be created in an estate for years. Subject to the provisions of the Civil Code it may be created to commence in futuro. But successive estates for life cannot be limited, except to persons in being at the time of the creation thereof, and all life estates subsequent to those of the persons in being are void, and upon the death of those persons in being, the remainder, if valid in its creation, takes effect in the same manner as if no other life estate had been created. And no estate for life can be limited as a remainder on a term of years, except to persons in being at the creation of such estate.

The great variety of ways of creating life estates and the opportunities of possible alienation or waste by the life tenant being so numerous, we often feel injustice is being done either to the life tenant or to the remainderman. Of course we cannot make general laws to fit individual cases, and it is apparent that the appraisal methods authorized by our state law do substantial justice in the majority of instances.

The reported cases uniformly hold that a life tenant stands in the nature of a quasi-trustee for the remainderman and may not waste or use the corpus of the property, *except*—where the property is given for life with implied or express power in the life tenant to use the principal and thus deplete the remainderman's interest. In regard to real property less difficulty arises than with personal. The life tenant of real property may not alienate it or pass any greater title than he possesses therein. In other words,

he may sell his life interest, but what he sells is merely an estate which ceases at his death. With a life estate in personalty, the Civil Code, sec. 1365, provides that where a specific legacy is given for life to a beneficiary, he must deliver an inventory thereof to the remainderman. This is a section of the code not complied with, in actual practice, to the extent anticipated by the legislature, to the great detriment of remaindermen. Unless a trustee is appointed to care for the corpus property and pay the income of the life tenant, there is great danger that the corpus of an estate consisting of personalty, and especially if the personalty be money, will be greatly diminished or indeed totally non-existent at the time it was destined to reach the remainderman.

It is our practice in California, where an estate is given to a tenant for life with power to invade the principal at his discretion, with a remainder over of the balance existing at the death of the life tenant, to tax the whole corpus of said estate to the named life tenant, since he may, in his discretion, use the whole thereof. It would seem that the tax might be so paid and at the death of the life tenant a recomputation be made, and an adjustment of tax be made based on the value of the property actually used by the life tenant, in excess of his theoretical life estate, and the value of the property passing to the remainderman—as of the appraised value at the date of the death of the testator.

As a matter of practice we compute the value of life estates and remainders, where more than one contingency may arise, upon both the highest possible contingency and upon the normal and probable contingency. The tax upon the probable contingency may be paid and a bond given to the state of California for the payment of the highest possible contingency in case it arises. Or the tax according to the highest contingency may be paid and if the said highest contingency fails, or to the extent of its failure, the amount of overpayment of tax will be refunded, in order that the state may not be in receipt of more tax than its just due. In many cases the highest possible contingency amounts to little less than an absurdity. In a matter occupying the attention of the inheritance tax department at the present time we have a tax based upon a normal and probable contingency, of some $81,000, where the successive life

tenancies number fifty-six, and a tax, computed on the highest possible contingency, amounting to nearly $300,000. This highest contingency assumes that all but one of the fifty-six named beneficiaries might die before the expiration of the trust creating the estates.

Where the actual value of a life estate is determinable, such as the payment of a certain fixed annuity, this is of course used as a basis of computation instead of the arbitrary five per cent. Also, when an annuity or life estate is terminated by the death of the annuitant or life tenant and the tax upon such interest has not been fixed or determined, the value of such life estate is determined as being the precise amount ascertained to have been paid. This is more accurate, certainly, than our arbitrary theoretical figure would prove. For instance, in a trust created by the late Lina C. Gillette, her mother was given a life estate in property of the value of approximately $2,030,000. The mother had reached the very great age of ninety-eight years and the value of her life estate as computed by our tables amounted to about $25,000. However, she died before the tax was computed on the estate and the tax on this life estate was assessed on the *actual* amount paid to her during her life tenancy; almost *ninety thousand dollars!*

Where the testator provides that out of the residue of his estate an annuity is to be purchased to pay a certain sum per annum to a beneficiary named, the taxable amount is the sum necessary as the purchase price of the annuity, and not simply a life estate in the sum mentioned to be paid per annum, according to the usual method of computation.

Section 8, subdivision 4 of the Inheritance Tax Act provides that

"Estates in expectancy which are contingent or defeasible and in which proceedings for the determination of the tax have not been taken or where the taxation thereof has been held in abeyance, shall be appraised at their full undiminished value when the persons entitled thereto shall come into the beneficial enjoyment or possession thereof, without diminution for or on account of any valuation theretofore made of the particular estates for the purpose of taxation, upon which said estates in expectancy may have been limited."

So when the taxation is held in abeyance because of uncertainty of the taking effect of a contingency, if or when the contingency occurs, the value of the remainder then taking effect is appraised at the actual value of the property reaching the remainderman, without deducting anything by reason of the life estate; however, the phrase "full undiminished value" means the value as of the death of the testator and does *not mean any increase in valuation* of the estate since the death of the testator.

Whether the payment of tax on the life estate and the remainder should be paid out of the principal of the estate or out of the income has been fruitful of much discussion. In California we authorize payment out of the corpus of the estate under the theory that the burden between the life tenant and remainderman equalizes itself. Since the payment out of the principal cuts down the amount upon which the life tenant receives income, he considers himself aggrieved that he thus pays the remainderman's tax. The remainderman has an equal luxury of his own grievance that his remainder is cut down by the payment of the tax on the life estate.

When property is transferred under a will or in trust we have the executor or trustee charged with the duty of seeing that the tax is paid, and they are empowered to sell property for the payment of the tax. But when a life estate is created by a deed with remainder over to a designated person, and the deed takes effect at the death of the grantor, both the life tenant and the remainderman must pay the tax on the transfer, according to the value of their respective interests in the property, and the tax remains a lien upon the property until the tax is paid.

The method of computing a simple life estate is so clearly set forth on pages 68 and 69 of the Controller's rules and suggestions, in an excellent pamphlet in the possession of each appraiser in the state, that I am including as an illustration the example therein set forth, as follows:

"(a) Suppose Adam Jones dies May 25, 1916, leaving by his will $100,000 to his wife for life, with remainder to his son—What is the value of the life estate to the widow?

"First, we must know the date of her birth. Suppose it were October 20, 1876, counting to her nearest birthday, as the actuaries' rules require, we note that on

(Continued on Page 27)

Doings of the Committees

COMMITTEE ON COURTS OF INFERIOR JURISDICTION

Your Committee on Courts of Inferior Jurisdiction has been considering the question of a survey of the business of the Municipal Court, and in particular what information should be sought after in such a survey.

It is important, we believe, that the work of the Municipal Court should be kept up to date. To that end measures should be taken so that the Court will not fall behind in its work; in other words, preventive measures should be taken rather than that we should wait until the court has become congested and then attempt some remedial measure.

In order to apply any preventive measures it is necessary to know the trend the business of the court is taking; whether it is gaining or losing ground. We desire to suggest that a current check be kept upon all the incoming and outgoing business of the Municipal Court. This would be in the nature of a daily balance sheet which should show each day (1) the number of unsettled cases pending in the court, (2) the number of new cases filed, and (3) the number of cases finally disposed of by judgment or dismissal. From such a record it would be possible to determine at any time whether the court is gaining or losing ground, and if the latter, immediate steps could be taken to remedy the condition and prevent further congestion. We have in mind that a complicated and congested condition may develop gradually without anyone realizing the direction in which affairs are moving until after the situation has become serious. The plan above proposed is to avoid and forestall such an occurrence.

It is the opinion of the members of the Committee that the plan above outlined is of sufficient importance to justify the employment of a special clerk who should devote all his time to it. At the present time there is probably no one in the Municipal Court clerk's department who could be spared for this purpose. It seems to the Committee a proper function to be carried on by the County Bureau of Efficiency. We believe that the most practical way to handle the matter would be to have a clerk designated from that bureau to carry on the proposed work. This, of course, would have to be arranged through the office of the County Board of Supervisors.

The Committee respectfully recommends that steps be taken immediately to bring about the institution and maintenance of a daily record along the lines above suggested and that the matter be taken up with the Board of Supervisors and such requests as may seem advisable be made by the Trustees of the Bar Association to the Board of Supervisors for the appointment of some person from the Bureau of Efficiency for this work.

Respectfully submitted,

WILLIAM W. CLARY, *Chairman*
FRED HOROWITZ, *Secretary*
E. J. LICKLEY
CARL A. STUTSMAN
WM S. BAIRD
THOS. B. REED
R. MORGAN GALBRETH
A. L. HICKSON
JOHN R. BERRYMAN, JR.

COMMITTEE ON CONSTITUTIONAL AMENDMENTS

A meeting of the Committee on Constitutional Amendments was held at noon on November 28 in the office of Mr. S. B. Robinson, in the Pacific National Bank Building. A delightful plate luncheon was served. There were present Messrs. S. B. Robinson, Jess E. Stephens, Paul E. Schwab and Ralph W. Smith of the Committee, Mr. J. H. Cragin and Mr. R. H. Purdue of the BULLETIN. In the absence of Chairman Richard C. Goodspeed, who was out of the city, Vice-Chairman Robinson presided.

Mr. Stephens gave a very interesting oral discussion of the proposed amendment pertaining to Olympiad Bonds, the primary purpose of this amendment being to obtain the ratification by the people of the recent legislative act creating the Olympiad Commission in contemplation of the Olympic games to be held in California in 1932, and authorizing a bond issue of $1,000,000 to be expended by the Commission in the prep-

aration for and conduct of this event.

An enlightening summary of matters in connection with the proposed Riparian Rights amendment was made by Mr. Robinson, on the subject of which amendment he is preparing a written report and recommendation.

Discussion was had also as to the proposed amendment authorizing a $6,000,000 bond issue for the purpose of acquiring lands for park purposes.

Several written reports had been completed by individual members of the Committee on various proposed amendments referred to them for investigation and study. However, because of the want of a quorum at the meeting, these reports await the approval of the Committee at its next meeting.

The reports which have been completed are as follows:

Political Subdivisions Owning Stock (Amendment A-26, Article IV, Section 31), Paul E. Schwab; Jury Trial (Amendment S-9, Article I, Section 7), Ralph W. Smith; Judiciary (Amendment S-12, Article VI, Sections 2, etc.), Russ Avery; Grade Separation Bonds (Amendment S-18, Article XVI, Section 6), Ralph W. Smith.

Reports in course of preparation are: Eminent Domain—Pre-taking (Amendment A-21, Article I, Section 14), Jess Stephens; Riparian Rights (Amendment A-27, Article XIV, Section 3), S. B. Robinson; State Aid—Physically Handicapped (Amendment A-31, Article IV, Section 22), S. B. Robinson; Stockholders Liability (Amendment S-5, Article XII, Section 3), Howard Robertson; Excess Condemnation (Amendment S-16, Article I, Section 14½), Jess Stephens; State Aid—Blind (Amendment S-21 Article IV, Section 22), S. B. Robinson; Extending Life of Corporations (Amendment S-22, Article XII, Section 7), Harry Chamberlain; Olympiad Bonds (Amendment S-24 Article XVI, Section 5), Jess Stephens.

Other proposed amendments under consideration are: Absentee Voting (Amendment A-35, Article II, Section 1); Public Instruction (Amendment S-26, Article IX, Sections 2, 3, 7); Compensation of Jurors (Amendment S-27, Article XI, Section 5); State Park Bonds (Amendment S-33, Article XVI, Section 7.)

OPINIONS BY COMMITTEE ON LEGAL ETHICS

W. Joseph Ford, *Chairman*

Gurney E. Newlin — Theodore T. Hull

John O'Melveny — John Biby

42. Advertisement of an Attorney's Name as Counsel for a Corporation.

Is there any impropriety in an attorney permitting his name to be advertised as an attorney or counsel for a corporation, trade organization or collection agency, in newspapers or circulars, or upon their respective letter heads?

The New York Lawyers Association has answered this question in the negative (47-viii-ab-d). The opinions of this Association are entitled to great respect. The opinion, however, must be confined to a simple statement of the name of the attorney without any laudatory remarks; and such an announcement should realte only to an attorney regularly employed upon a retainer basis. This opinion by the New York Lawyers Association is liberal, and it is our opinion that such practice is not commendable, and should be discouraged. There has been so much abuse of the relation between collection agencies and attorneys that any relaxation in the rules governing such relation might lead to abuse. In such relation too often the lawyer is the servant of the agency and does its bidding, and the lawyer's public function is farmed out by those not entitled to exercise it, and who are not amenable to summary discipline. Such conditions lead to abuses which destroy the independence of the lawyer and obscure his sense of obligation to the client. The proper administration of the office of a lawyer requires that it should not be under control of an intermediary whose qualifications have been in no way demonstrated.

Dated: October 6, 1927.

43. Fees.

An opinion has been requested to the following inquiry:

Is it proper for a receiver and his attorney to enter into an agreement where each of them agrees to split his respective fee with the other?

In rendering an opinion with respect to the foregoing inquiry, it is assumed that the receiver is not entitled to receive fees for legal services. An agreement of the character set forth in the inquiry is improper.

The receiver is not entitled to any of the fees received by the attorney for legal services rendered, as this would be in effect an agreement by an attorney to divide his fees with a layman. Neither is the attorney entitled to share in the fees of the receiver. Moreover, the fees of a receiver are almost invariably fixed by the Court and the concealment of such a division, would be further improper as a concealment by the attorney of a fact from the Court which might have a direct bearing upon the amount of fees as fixed by the Court.

Dated: October 6, 1927.

44. ADVERTISEMENT BY PATENT ATTORNEY.

An opinion has been requested to the following inquiry:

Is it proper for the patent attorney to run an advertisement in newspapers or trade journals?

Answer. To merit the highest respect of the public, patent attorneys should be held to the same rules as other attorneys. It is not objectionable for such an attorney to publish a card announcing his name, address, and the fact that he is a patent attorney, in a newspaper in communities where such custom prevails.

Dated: October 6, 1927.

A FEW SUGGESTIONS TO THE COMMITTEE ON CRIMINAL LAW

By H. Y. ROMAYNE *of the Los Angeles Bar.*

The Committee on Criminal Law and Procedure recommends in its report the establishment of a Central Detention Institution or Laboratory divided into several departments, such as, a Department of Criminology, a Medical Department, a Psychology Department, a Vocational and Industrial Department and a Psychiatric Department—(See report page 14, volume 3, number 5, The Bar Association Bulletin, issue of November 3, 1927.)

The whole of the new procedure, which would supplant all that now takes place, is to commence *after* the accused is pronounced guilty by a superior court of the state of California.

At the meeting of the Los Angeles Bar Association on the 15th of November, 1927, several of the speakers called attention to the fact that under the new plan, the interest of the commonwealth in a defective, anti-social or unsocial member would only commence *after* he has been found guilty, whereas the interest of the state in its anti-social or defective citizen should commence *before* he is found guilty. Some suggested that this interest should go back as far as the home, school, church, etc., but this, no doubt, would be too comprehensive and experimental a project for the bar to undertake at the present time. But attention should be given by the Committee and the Bar Association to the criticisms made which consist of putting into operation the new project of the Committee *at the time* that the accused becomes entangled in the meshes of the law.

Granting that the accused is physically or mentally deficient and that by reason of that deficiency has committed a crime, and because of that, the state, through the new instrumentality, should come to his assistance and treat him, not as a criminal but as a defective and unfortunate, why wait until he is found guilty by the superior court? Why go to the expense of a trial? Would it not be better and simpler to start this new agency of mercy into operation *at* and *after* the preliminary hearing before the magistrate? Why extend the hand of succor to the culprit after conviction and after he is already branded as guilty, and not before; providing, of course, the motives and reason and circumstances for this assistance are the same at the preliminary hearing as they would be in the superior court?

Another criticism was levelled at our heads by some of the speakers at the same meeting of the Bar Association; to-wit, the inability of experts on medical and mental problems to properly present their testimony over the constant objections of counsel which often times render their testimony farcical. This point, to the writer, seems well taken, as the court and jury are often prevented, by reason of these objections, from having the full benefit and

enlightenment from such testimony.

Then again, if such medical and psychological testimony is henceforth to be given full weight, for the benefit of the accused, would not its weight and import and consequences be of more service to the accused and the state (looking out for his welfare), at the preliminary hearing than after a conviction in the superior court? And more so if some method could be provided so that this expert testimony could be either given orally before the magistrate at the preliminary hearing, unhindered by objections from the prosecutor or counsel for the defendant, or submitted in writing in the nature of a report?

For this preliminary hearing some such simple proceedings as are now used by the Industrial Accident Commission could be provided. The state, in cases of injury, having realized that an accident is neither the voluntary act of the employer or of the employee, has provided an agency and a method which allows free and untrammelled investigation through a simple method of hearing, devoid of technical objection, upon which adjudication is made by the referee.

Then, again, expert physical and mental testimony, if it is to be of service to the accused, should be heard and utilized at the preliminary hearing and not after the accused has been found guilty.

The following suggestions are made by the writer to the Committee on Criminal Law and Procedure:

No indictment should take place and no information is to issue except after a preliminary hearing and only upon the order of the committing magistrate, who shall be, as now, a justice of the peace, municipal or police judge.

These judges, sitting in criminal matters, should have a function similar to the *Judge d' instruction* under the French Criminal Code, whose duty is the examination and commitment or release of the accused.

All complaints issued by the district attorney or the city prosecutor, together with all testimony and exhibits, are to be transferred to the examining magistrate, who shall examine the witnesses *without* intervention or appearance of the district attorney, prosecutor or counsel for the defense, and which said judge shall act for the state, representing both the prosecution and the defense. For that purpose, he shall call as witnesses (if need there be) experts in medical and mental matters, and hear them fully, either orally or by way of written reports, or both, as the case may require, and upon such hearing examine witnesses who know either about the crime or about the *circumstances* (Section 71 *Code d' Instruction Criminelle—Codes Francais* by Tripier et Monnier, 60th Edition) and then, upon a full and complete hearing, either dismiss the case, or bind the defendant over, or send the case to the grand jury, or, having found the defendant to be entitled to the benefits of the new method of criminal correction and aid (as outlined by the Committee's report) to commit the defendant to one of these agencies under proper rules and regulations. Said magistrate would further have the right and power to assess the costs of the hearing to the complainants and damages to the accused from the complainants in case of a dismissal, up to a certain amount and under proper rules and regulations. This last suggestion would considerably curtail the amount of criminal complaints and induce the complainants to chose the medium of civil courts for redress in cases in which criminal conviction would be doubtful; and also considerably reduce the work of the prosecutor's office.

Following Article 67 of the French Code (op. cit.) privilege could be given, under a proper section, and proper rules and payments, to the complainant at any time before final submission of a case to have the case transferred from the criminal to the civil department.

At the hearing before the magistrate each witness would be heard separately by the judge, assisted by the clerk, and all testimony taken down in shorthand. After being extended, re-read, corrections made, if any, and signed by the witness (or if unable, by some one for him), the transcript of the case would be signed by the judge and clerk. (Section 76 Op. Cit.)

Could not the Committee arrange the proposed legislation so that in a case similar to those wherein under the present plan the defendant, after conviction in the superior court, would be given the assistance derived from the creation of these new agencies, the magistrate would be empowered, after the preliminary hearing, to commit the offender for a definite period of time to one of the proposed institutions for the purpose of earning the credits of

(Continued on Page 28)

Forms Furnished By County Offices

Through the courtesy of Mr. L. E. Lampton, County Clerk of the County of Los Angeles, and of Mr. W. S. Dinsmore, Clerk of the Municipal Court, City of Los Angeles, a complete list has been furnished the BULLETIN of the various forms in the Clerks' offices which are supplied to attorneys for their use and convenience. The list of forms is as follows:

COUNTY CLERK'S OFFICE—CIVIL DEPARTMENT

Affidavit Blank
Affidavit for Attachment
Affidavit for Publication of Summons
Affidavit of Service
Amendment to Complaint (under sec. 474 C. C. P. — subst. true name)
Attachment for Defaulter
Bench Warrant
Certificate of Assignment and Transfer to Long Beach
Certificate of Dismissal
Citation
Commission
Decree of Foreclosure and Sale
Default Entry—Clerk
Default Entry—(by Court)
Dismissal
Divorce Default Setting Cards
Final Judgment of Divorce
Interlocutory Judgment of Divorce
Judgment by Court after Default
Judgment by Default—by Clerk
Judgment by Default — by Court (Service by Publication)
Judgment on Verdict
Memorandum of Costs and Disbursements
Notice of Legal Requirements as to Time for Final Decree
Order for Appearance of Judgment Debtor
Order for Publication of Summons
Order to Enter Default
Setting Card
Statement to Clerk
Subpoena—Civil
Subpoena—Civil (Copy)
Subpoena Duces Tecum
Summons
Summons—Unlawful Detainer
Transfer—to Long Beach Dept.
Undertaking on Attachment
Verdict
Writ of Attachment

COUNTY CLERK'S OFFICE—PROBATE DIVISION

Affidavit for Commission to Take Deposition, etc.
Affidavit for Final Discharge, and Order
Bond of Administrator on Sale of Real Estate
Bond of Administrator upon Qualifying
Bond of Guardian on Sale of Real Estate
Bond of Guardian upon Qualifying
Certificate of Assignment and Transfer—for Long Beach Dept.
Certificate of Proof of Will—Foreign
Certificate of Proof of Will—Olographic
Certificate of Proof of Will—Witness

Citation
Commission
Creditor's Claim
Form for Giving Notice to Creditors
Interrogatories
Inventory and Appraisement
Letters of Administration
Letters of Administration with Will Annexed
Letters of Guardianship
Letters Testamentary
Notice of Hearing Petition to Lease Realty
Notice of Hearing Petition to Mortgage Realty
Notice of Hearing Petition to Terminate Joint Tenancy
Order Appointing Inheritance Tax Appraiser
Order Directing Notice of Application for Guardianship of Incompetent
Order Prescribing Notice of Hearing Petition for Appointment of Guardian of Minors
Petition for Appointment of Guardian
Petition for Letters of Administration
Petition for Probate of Will
Request for Appointment of Appraisers
Subpoena
Testimony of Subscribing Witness and of Applicant
Voucher Envelopes

COUNTY CLERK'S OFFICE—CRIMINAL DEPARTMENT

Bail Bond (Indictment)
Bail Bond (Information)
Commitment (for State's Prison and County Jail)
Commitment (to Ione)
Exoneration of Bail
Order for Board and Care (for Ione)
Order for Meals for Jurors
Order for Return of Exhibits
Petition for Writ of Habeas Corpus
Remittitur
Subpoenas
Verdict—Guilty
Verdict—Not Guilty
Writ for Habeas Corpus

SHERIFF'S OFFICE

Instructions to Sheriff
Order to Release

MUNICIPAL COURT CLERK'S OFFICE—CIVIL DEP'T.

Abstract of Judgment
Acknowledgement of Credit
Affidavit for Attachment
Affidavit for Order for Appearance of Debtor of Judgment Debtor under Section 717 C. C. P.
Affidavit for Order for Appearance of Garnishee under Section 545 C. C. P.
Affidavit for Publication of Summons
Affidavit in Proceedings against Joint Debtor
Affidavit of Service
Affidavit on Claim and Delivery of Personal Property

Amendment to the Complaint for Fictitious Names
Bench Warrant
Citation for Trial on Summary Proceedings
Claim of Exemption of Money Paid into Court under Sec. 710 C. C. P.
Copy of Minute Order
Demand for Summary Proceedings and Order Therefor
Dismissal
Execution
Execution in Joint Debtor Judgments under Sec. 989 C. C. P.
Execution on Claim and Delivery
Judgment after Trial by Court
Judgment after Trial by Court Defendant Failing to Appear
Judgment after Trial by Court in Summary Proceedings Defendant Failing to Appear
Judgment after Trial by Court in Unlawful Detainer
Judgment after Verdict by Jury
Judgment by Default after Publication of Summons
Judgment by Default by Clerk
Judgment by Default by Court
Judgment by Default by Court in Proceedings against Joint Debtor
Judgment in Summary Proceedings
Memorandum of Costs and Disbursements
Notice of Appeal
Notice of Filing Appeal Bond
Notice of Hearing on Demurrer
Notice of Trial
Order for Appearance of Debtor of Judgment Debtor under Sec. 717 C. C. P.
Order for Appearance of Garnishee under Sec. 545 C. C. P.
Order for Appearance of Judgment Debtor
Order for Publication of Summons
Order to Enter Default
Request for Setting for Trial on Questions of Fact
Satisfaction of Judgment
Subpoena
Subpoena Duces Tecum
Summons
Summons in Proceedings against Joint Debtors
Summons in Unlawful Detainer
Transcript of Judgment Docket
Undertaking on Appeal
Undertaking on Attachment
Undertaking on Claim and Delivery of Personal Property
Writ for the Enforcement of Judgment Requiring Sale of Personal Property
Writ of Attachment
Writ of Possession

NOTE: Some of these forms are stocked in such small quantities that they are given out only as needed.

MUNICIPAL COURT CLERK'S OFFICE--CRIMINAL DEPT.

Bail Bond (Form A)
Subpoena

MARSHAL'S OFFICE

Instructions to Marshal
Order to Release

Book Reviews

By HARRY GRAHAM BALTER *of the Los Angeles Bar*
Lecturer in Law at the College of Law, Southwestern University

MAIN STREET AND WALL STREET; William Z. Ripley; Nathaniel Ropes, professor of political economy, Harvard University, 1927; VII, 250 pages, price $2.50, (Little Brown & Co., Boston).

We are so accustomed in these days to the idea of a corporation being the accepted vehicle for the conduct of business enterprise, that we have grown callous to the hidden and patent dangers which the corporate form of business organization holds for the investor and for the public generally.

It took Brandeis' *Other People's Money* published quite a few years ago, to point out to the few who were interested that all was not well "along the Potomac"—that with the vast accumulation of corporate wealth and power came the well-nigh necessary temptations to abuse that power.

And it should not take more than the scintillating expose of Professor Ripley's *Main Street and Wall Street* to awaken all of us to the real abuses and perversions which have speedily grown up as a result of the tremendous concentration of power brought about by a lenient toleration, lately turning to open encouragement of this trend by our people and by our government.

Main Street and Wall Street is not a muckraking expose. It is a compilation of hard facts welded together into a convincing treatise by one who knows his ground.

This book is based principally upon several magazine articles written by the same author which appeared recently in the *Atlantic Monthly*. After the publication of the first of these articles, the Governors of the New York Stock Exchange held meetings which resulted in a radical alteration of policy. Within a month President Coolidge commended the articles to the attention of every American. Obviously there must have been some troublesome revelations to produce such action.

The treatise of the author is not so much that the corporation as it is now allowed to be formed and to be conducted, is a menace to sound public policy, but even further that corporations with their interlocking directorates and their voting trusts, which vest all power in the hands of a few, have become veritable pitfalls for the investor, and a disgrace to the dignity of the sovereign states which have allowed their sovereign power of bringing into life these "creatures of the imagination" to become debased by the mad rush to outdo each other in the modern business of turning out corporations—and permit them to prey upon an uneducated and uninformed public.

Device after device has been invented by ingenious jugglers of corporate destinies for the concentration of power and responsibility in the directorates of these "legal entities." But the danger of it all is that as the power of the controlling few in each corporation has increased, their responsibilities to their own stockholders have been lessened and lessened. By express provision in their charters—unabated by greedy states seeking charter fees—the ones in control are virtually responsible to no one for their deeds or misdeeds. Billions of dollars a year are garnered by these corporations from an investment-seeking public, and when the oft-recurring crash comes, the stockholders, shorn of power and franchise, are merely onlookers, as the directors, who should be responsible, proceed to go through the legal gymnastics which result in whitewashing them of their guilt. The prime vice of this is that the precedent-loving lawyers and legislators have persisted in retaining the senseless fiction that the corporation is an entity, separate and distinct from those who really control the corporation. "Recent experience, and a cumulative one too, demonstrates the menace of too rigid adherence to this theory of compulsory unity from the standpoint of the plain citizen and the isolated small shareholder. Danger arises from two circumstances: first, the failure properly to distinguish between the small personal business and the large publicly owned corporation; and, second, the evolution out of the substantial democracy of corporations of the little republic type, of those which are indeed fearfully and wonderfully compounded of all sorts of elements, sometimes concordant, and sometimes conflicting in the extreme. It is the disregard of variation in size and quality of these artificial

creatures which lies at the root of some of our worst abuses.

* * * * * * *

"To meet the present situation there is a demonstrated need for the introduction of certain remedies, by virtue of which there shall be an amelioration of the law of absolute governance by a majority. Too closely has the management of corporations become identified with the use of "the steam roller." Some way ought to be found by which minorities shall have more of an opportunity, if not to block action detrimental to their interests, at least to assure a full opportunity for the presentation of their case before final action be taken. A number of recent decisions by the courts are putting heart into rebellious minorities, to very good effect." (Pages 75, 76.)

In the chapter on "Giving up Control: A Birthright for Pottage," Professor Ripley thoroughly exposes the abuses of the voting trust and other devices which have shorn the stockholder of a voice in the management—which rightfully belongs to him.

Names are not spared and each page is filled with illustrations of abuses which exist and flourish.

Of course, being a professor, and a financial writer of established repute, Mr. Ripley comes forward with suggested remedies which are appropriate and will, no doubt, be productive of wholesale reform. Enough has been said to suggest that *Main Street and Wall Street* is a real contribution, one of those rare works of a scholar which stir our "captains of industry" and our legislators into action. No lawyer who is interested in corporations and in the financial world, should miss the opportunity of reading a book which, though not strictly a legal treatise, is bound to influence judges and legislators in their future actions.

APPRAISAL OF LIFE ESTATES

(Continued from Page 16)

October 29, 1916, she would be forty years of age, so she should be considered, for the purpose of the computation, as forty years of age at decedent's death.

"Consulting the annuity table prescribed by our Insurance Commissioner, copy of which is given in paragraph (c) hereof, we note that an annuity of one dollar per year to a person aged forty, has a present worth of $13.4329 at 5 per cent interest, the rate prescribed by section 8, subdivision 6 of the Inheritance Tax Act for computing life estates, her income would be

"$100,000 x .05 = $5,000 per year.

"Her life estate would therefore be worth $5,000 x 13.4329 = $67,164.50 at decedent's death.

"(b) The remainder of the estate which goes to the son of decedent, after the widow's life estate, would therefore be worth

"$100,000 — $67,164.50 = $32,835.50 at decedent's death."

In cases where the instrument which we are considering creates a joint life estate or more than one life estate, the appraisers are directed to refer the matter to the attorneys for the Inheritance Tax Department with information as to the date of death of decedent and date of birth of life tenants. If the computation is so involved that it requires the services of an actuary or specialist in mathematical lore, the matter may be referred to the insurance commissioner under the provisions of section 8, subdivision 6 of the Inheritance Tax Act, which directs as follows:

> "The insurance commissioner shall without fee on application of any superior court or of any inheritance appraiser, determine the value of any future or contingent estate, income or interest therein limited, contingent, dependant or determinable upon the life or lives of persons in being, upon the facts contained in any such appraiser's application or other facts to him submitted by said appraiser or said court, and certify the same in duplicate to such court or appraiser, and his certificate thereof shall be conclusive evidence that the method of computation therein is correct."

CRIMINAL PROCEDURE

(Continued from Page 20)

rehabilitation (which under the present time plan he would earn after a conviction in the superior court)? Under this arrangement, upon these credits being earned, the offender would be entitled to a dismissal of his case and his restitution to society.

ADMISSION OF ATTORNEYS

(Continued from Page 9)

to practice law is practicable and no doubt will prove efficient. Thereby we may be able to guarantee to the public that it is our aim that

> "all of the profession shall attain the standards of fitness and worth that will make the word 'lawyer' a guarantee of high character, learning, and professional honor."

The Office Equipment Company, 417 East Pico Street, local representative of the Edison dictating machine known as the Ediphone, has installed one of these units for a temporary period in one of the dictating rooms on the sixth floor of the Hall of Records in the County Law Library, as a test of the practical convenience of having such equipment available to attorneys at the court house and particularly in the law library.

The unit was not installed for use for experimental purposes by those not familiar with it, but attorneys using this system in their offices may take their own blank records to the court house and dictate at their convenience. Attorneys have found the arrangement particularly advantageous where the dictation is disconnected and not merely copy work which might simply be turned over to a typist.

AGE
id
Calif.
1067
?
)
t